

## Summary of January 15, 2003 Meetings on the Listing Determination for the Dye and Pigment Industries

### 1. Meeting on Economic Assessment

Representatives from the Environmental Protection Agency's Office of Solid Waste (EPA) met with representatives of the Color Pigments Manufacturers Association (CPMA) to discuss the dyes and pigments listing determination. The purpose of the meeting was to discuss, in general, the development of economic analysis in support of this determination. The list of meeting attendees and agenda are provided below.

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### **Meeting Agenda–Economic Assessment (9:00 a.m. - 12:00 Noon)**

Welcome and Introductions

Preliminary Comments

Economic Analysis in Support of Regulatory Development

Questions

Comments and Open Discussion

Close

### **Handout Distributed**

*Economic Analysis in Support of Regulatory Development–Informational Briefing for Stakeholders*

### **Meeting Summary**

EPA presented an overview of the economic analysis approach, using the handout as a starting point. The group then discussed the application of this approach to the current listing determination. EPA noted that, while the approach probably would be similar to that used in a prior analysis (*Regulatory Flexibility Screening Analysis - Proposed Listing as RCRA Hazardous Waste and Land Disposal Restrictions (LDRs) for Wastewaters and Wastewater Treatment Sludge from the Production of Azo Dyes and Pigments, and Still Bottoms from the Production of Triarylmethane Dyes and Pigments, Draft Report*, November 9, 2000), EPA hoped to move away from a model facility approach, if sufficient data were available. CPMA asked questions on the waste-to-product ratios used in prior analyses. These waste-to-product ratios are derived in part from a November 1975 EPA Effluent Guidelines Limitation Development Document for organic chemical manufacturing facilities. CPMA suggested that it might be able to provide updated information for these ratios. EPA indicated that this could be useful, and agreed to try to provide possible formats for such information to CPMA for consideration. The group discussed the impact of international trade on the economic analysis. EPA indicated that it would try to include this in a qualitative way. CPMA suggested that it also may be able to provide updated information on this issue.

CPMA provided a handout with updated information on the pigment facilities potentially generating wastes of concern. EPA agreed to provide CPMA with a revised table of these facilities, after EPA incorporated the new information from CPMA, as well as information expected from other groups. CPMA and EPA discussed how EPA might assess costs for various on-site management practices, including the differences for facilities that discharge to POTWs compared to facilities that have an NPDES permit. EPA agreed to provide an updated table of known on-site surface impoundments. CPMA asked if EPA would share a list of the constituents of potential concern that it is evaluating for the listing determination. EPA indicated that it would consider this request.

Following up on a discussion from a prior meeting (December 5, 2002), CPMA indicated that members could not provide the detailed waste quantity information EPA said would be desirable for use in considering a concentration-based approach rather than a loadings-based listing. CPMA said it could not provide the information due to the tight time constraints and the format suggested by EPA for this information, which included information that would be needed from non-members and producers not represented by CPMA. However, CPMA suggested that it might be able to provide some data for use in EPA's economic assessment, if CPMA and EPA could agree on a format for such data that would not jeopardize facilities' confidentiality concerns.

The group began to discuss how EPA would assess the potential impact of listings on small pigment manufacturers; however, the group agreed to discuss this issue in detail in the afternoon meeting.

## 2. Meeting on Small Business Issues

Representatives from the Environmental Protection Agency's Office of Solid Waste (EPA) met with representatives of the Color Pigments Manufacturers Association (CPMA) and the Ecological and Toxicological Association of Dyes and Organic Pigments Manufacturers (ETAD) to discuss the dyes and pigments listing determination. EPA also invited representatives from the International Association of Color Manufacturers (IACM), however, they did not attend the meeting. The purpose of the meeting was to discuss small business issues and the Regulatory Flexibility Analysis EPA will prepare in support of this determination. The list of meeting attendees and agenda are provided below.

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### Meeting Agenda–Regulatory Flexibility Analysis (1:00 - 2:30 p.m.)

Welcome and Introductions

Preliminary Comments

Review of Approach

Questions

Comments and Open Discussion

Close

## **Handout Distributed**

### ***Economic Analysis in Support of Regulatory Development—Informational Briefing for Stakeholders***

## **Meeting Summary**

EPA presented a brief summary of the morning meeting on economic analysis and the related handout. EPA then presented in more detail the Agency's general approach in defining "small entities" under the Regulatory Flexibility Act (RFA) as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA). CPMA questioned EPA's interpretation of the definition as established by the Small Business Administration (SBA) in 13 CFR 121.201. EPA identified the dye and pigment companies it believes may be small entities, as established by the SBA.

EPA described the procedure for determining possible significant economic impacts on a substantial number of small entities. The group discussed EPA's guidance on these determinations. EPA briefly described the SBREFA panel process that may ensue, if EPA determines there would be a significant economic impact on a substantial number of small entities. CPMA did not agree with EPA's interpretation of the Small Business Administration size determinations, or EPA's interpretation of SBREFA as applied to this listing determination as a matter of law.

The group continued discussions from the morning meeting on EPA's use of waste-to-product ratios to estimate the potential cost of listings. EPA indicated that its revised analysis incorporated pricing information for azo products based on statements in CPMA's January 4, 2001 comments on EPA's draft Regulatory Flexibility Analysis dated November 9, 2000. CPMA suggested that it could provide some updated information on prices of triarylmethane (TAM) and anthraquinone products as well. ETAD and CPMA both raised implementation issues relating to how facilities would determine constituent loadings, what testing would be required, and how this might burden small businesses. EPA indicated that it likely would be ready to discuss implementation issues in mid-to-late March of this year. CPMA and ETAD expressed interest in such a meeting. CPMA indicated that this could be a joint meeting including EPA, CPMA and the International Association of Color Manufacturers (IACM) to discuss implementation; ETAD representatives indicated this may be possible, but needed to consider whether a joint or separate meeting was preferable. CPMA and ETAD suggested that they would develop some potential dates for this meeting and provide them to EPA for consideration.